

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

IN RE:

ERNEST L. MYLES
CHARLENE V. MYLES
Debtor(s)

* * * * *

MARYLAND DEPARTMENT OF LABOR

Plaintiff

v.

ERNEST L. MYLES

Defendant

* * * * *

*

*

*

*

*

*

*

*

*

Case No. 19-15368-RAG

(Chapter 13)

Adversary
Proceeding No. 19-279

MOTION FOR DEFAULT JUDGMENT

Plaintiff Maryland Department of Labor (“DOL”, formerly known as DLLR)¹ by and through its attorney, Orbie R. Shively, pursuant to Fed. R. Civ. Pro. 55 and Fed. R. Bankr. Pro. 55, hereby moves for entry of judgment by default against Defendant Ernest L. Myles, with supporting Affidavit of Non-Military Service, and in support thereof says:

1. An Entry of Default was entered by the Clerk against the Defendant Ernest L. Myles on August 26, 2019 (Pl. 7) because the Defendant failed to plead as required by Fed. R. Bankr. Pr. 7012.

2. As of the date of this motion, Defendant has not filed an Answer nor has responsively pleaded as required by Fed. R. Bankr. Pro. 7012.

¹ DLLR changed its name to the Maryland Department of Labor effective July 1, 2019.

3. The amount sued upon by the Plaintiff as set forth in the Complaint To Determine Dischargeability of Debt ("Complaint") is Five Thousand One Hundred Sixty Dollars (\$5,160.00) overpayment principal, fraud penalty of Seven Hundred Seventy Four Dollars (\$774.00), and interest based on the fraud ("fraud interest") of Eighty-Nine Dollars and One Cent (\$89.01), for a total balance of Six Thousand Twenty-Three Dollars and One Cent (\$6,023.01).

4. Records in the United States Department of Defense, annexed hereto as Exhibit 1, show that Defendant is not current in the military service.

5. Pursuant to Local Bankruptcy Rule 9013-2, no memorandum will be filed and the movant will rely solely on this motion.

WHEREFORE, Plaintiff Maryland Department of Labor ("DOL") respectfully requests that this Court enter order(s):

(a) determining that the debt owed by Defendant to Plaintiff to be nondischargeable pursuant to 11 U.S.C. §523(a)(2)(A) consisting Five Thousand One Hundred Sixty Dollars (\$5,160.00) overpayment principal, fraud penalty of Seven Hundred Seventy Four Dollars (\$774.00), and interest based on the fraud ("fraud interest") of Eighty-Nine Dollars and One Cent (\$89.01), for a total balance of Six Thousand Twenty-Three Dollars and One Cent (\$6,023.01), plus costs of Three Hundred and Fifty Dollars (\$350.00) (the amount of the adversary filing fee);

(c) enter judgment in favor of Maryland Department of Labor and against Defendant Ernest L. Myles in the amount of Six Thousand Twenty-Three Dollars and One Cent (\$6,023.01), plus costs of Three Hundred and Fifty Dollars (\$350.00) (the

amount of the adversary filing fee), plus interest at the federal rate from the date of entry of the judgment.

AFFIDAVIT

I SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING MOTION FOR ENTRY OF DEFAULT JUDGMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Dated: September 5, 2019

/s/ Orbie R. Shively
Orbie R. Shively (Fed. Bar No. 04461)
Maryland Department of Labor
Litigation and Prosecution Unit
1100 North Eutaw Street, Rm. 522
Baltimore, MD 21201
(Ph.) (410) 767-4366/Fx. (410) 333-5059
orbie.shively@maryland.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September, 2019, a copy of the foregoing Motion For Default Judgment was mailed first class, postage prepaid to:

Ernest L. Myles
316 Tollgate Road
Owings Mills, MD 21117

Jeffrey P. Nesson, Esq.
11421 Resiterstown Road
Owings Mills, MD 21117

U.S. Trustee
Garmatz Federal Courthouse
101 W. Lombard Street, Rm. 2625
Baltimore, MD 21201

/s/ Orbie R. Shively
Orbie R. Shively